

FREDERICK COUNTY PLANNING COMMISSION

August 10, 2011

TITLE: Frederick County Agricultural Complex – (Deere Meadows, Tract 2)

FILE NUMBER: SP 07-11 (AP# 6210)

REQUEST: APFO Letter of Understanding Approval

PROJECT INFORMATION:

LOCATION: South side Elmer Derr Road, near Cap Stine Road
ZONE: Agriculture
REGION: Adamstown
WATER/SEWER: NPS (No Planned Service)
COMP. PLAN/LAND USE: Agricultural/Rural

APPLICANT/REPRESENTATIVES:

APPLICANT: Catocin Soil Conservation District
OWNER: same
ENGINEER: Lavelle & Associates, Inc.
ARCHITECT: Harne, Bowne Architects
ATTORNEY: Not Listed

STAFF: Ronald Burns, Traffic Engineer

RECOMMENDATION: Approval

Enclosures:

Exhibit #1: Non-executed Letter of Understanding (LOU)
Exhibit #2: Developer's Option Letter dated June 13, 2009
Exhibit #3: January 13, 2010 Staff Report
Exhibit #4: Escrow Account Map

STAFF REPORT

BACKGROUND

The purpose of this review is to formally approve the APFO Letter of Understanding (LOU) for the Frederick County Agricultural Complex (Deere Meadows Tract 2) project. This project already received APFO and site plan approval on January 13, 2010 and no site plan issues are being considered as part of this approval. This project comes under the old APFO (prior to July 2009) and its procedures which had the LOU signed by the Planning Commission chairperson after, not as part of, the project hearing.

ANALYSIS

Access: The unusual arrangement of this property fronts public roads (Horman Lane and Elmer Derr Road) on all sides except for one 408' shared property line with the adjoining parcel to the west. Both Horman Lane and Elmer Derr Road are designated as local roads on the Comprehensive Plan, although an argument can be made that with the eventual build-out of residential PUDs to the east, the function of Elmer Derr Road may increasingly act more like a Minor Arterial road, causing greater intersection volume at the Elmer Derr/Cap Stine Road intersection. The Applicant proposes a full entrance off of Horman Lane.

Road Frontage Improvements: The Applicant is proposing to upgrade Horman Lane (as shown on the Site Plan Sheet 2) in order to mitigate certain APFO conditions of inadequacy. The Applicant proposes to upgrade Horman Lane from 15-16' to 20' width from the site access point to Cap Stine Road. The 20' width meets emergency vehicle access requirements. This improvement is further described under the "APFO" paragraph below.

Adequate Public Facilities Ordinance (APFO): The Board of County Commissioners adopted new APFO regulations (Ord. 09-20-524) that became effective for all APFO applications submitted after July 7, 2009. This APFO application was submitted on March 17, 2007, and is subject to pre-July 7, 2009 APFO provisions.

This APFO application was reviewed for potential impacts on schools, water/sewer and roads. The APFO approval can be granted for a three-year period, because the Traffic Impact Analysis (TIA) upon which this approval was based on a three-year traffic-capacity window.

- **Schools:** The non-residential nature of this project has no impact on schools.
- **Water and Sewer:** There are no water or sewer facilities to be impacted because the site is using an existing well and a proposed septic system.
- **Traffic:**
 - **Intersection Analysis & Capacity:** The Applicant submitted a traffic impact analysis, dated July 11, 2008 and updated January 21, 2009 by Traffic Solutions, Inc., indicating the site is generating 143 new AM and 184 PM peak-hour trips. Except for the US 340 WB ramps, all of the study-area intersections operate at an adequate level of service (LOS) "C" (Rural) or better under total future traffic conditions. These were the intersections studied:
 - US 340 WB ramps at Mt. Zion Rd. - (LOS 'D')
 - US 340 EB ramps at Cap Stine Rd.

- Elmer Derr Rd. at Cap Stine Rd.
 - Horman Lane at Cap Stine Rd.
 - Horman Lane at Emergency Access Point
 - Elmer Derr Rd. at Site Entry
 - MD 351 at South Renn Rd.
- **Proposed Intersection Contribution:** There are no existing escrow accounts in the study area (see attached map). However, the Applicant is proposing to provide a *pro rata* contribution to create a new escrow account to address the US 340 WB ramp LOS failure:
- **New Escrow Account:** US 340 WB ramp at Mt. Zion Rd.
 - **Improvement:** Addition of a 350' decel lane
 - **Initial Cost:** \$146,078 as determined by Applicant and approved by DPDR
 - **Fair Share Contribution:** 20% or \$29,216
 - **Assessment:** This improvement will allow ramp motorists desiring to go north along Mt. Zion Road to bypass the projected queue on the ramp resulting from left-turning motorists at the stop sign at Mt. Zion Road. Payment would be made prior to building permit issuance.
- **Traffic Link Inadequacy & Proffer:** Lastly, with regard to the Horman Lane upgrade, road improvements necessary to meet the APFO standards shall be determined by the Planning Commission as permitted under § 1-20-31 (F), after reviewing the entire record, including structural adequacy of the pavement and lane width. Horman Lane (by visual inspection and field measurement) is seriously deteriorating and has less than the standard width to support commercial development. Also, the majority of traffic is proposed to access the site via US 340/15 and Cap Stine Road, particularly when Cap Stine Road is relocated to line up with English Muffin Way, forming a major east-west arterial connector.

In order to reasonably mitigate these inadequacies, the Applicant has agreed to widen Horman Lane to a 20' wide road section from Cap Stine Road to the site access, as shown on sheet 2 of the Site Plan. When the APFO Letter of Understanding is prepared, this proffer (including all associated design details regarding commercial traffic upgrades) shall be included in the LOU language.

Should the applicant demonstrate that the necessary right-of-way or easement would not be provided by the neighboring property owner, the applicant would need to re-submit the site plan for staff review in order to provide temporary alternative access via Elmer Derr Road. This temporary second access point would be gated and closed at such time that Horman Lane would be widened from the site access to Cap Stine Road.

FINDINGS:

The Staff finds that the attached Letter of Understanding fulfills the requirements of the APFO FcPc approval of January 13, 2010.

RECOMMENDATION:

Staff recommends signature of the attached LOU.

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF THE HISTORY OF ARTS
AND ARCHITECTURE
1100 EAST 58TH STREET
CHICAGO, ILLINOIS 60637

Dear Mr. [Name]:
I am writing to you in response to your letter of [Date]. I am sorry that I cannot
reply to you more quickly, but I have been very busy with my work.

I am very interested in the work that you are doing, and I am
glad to hear that you are making progress. I am sure that your
work will be very valuable to the field. I am looking forward to
seeing your work in the future.

I am sorry that I cannot give you more information at this time,
but I am sure that you will understand. I am sure that your
work will be very valuable to the field. I am looking forward to
seeing your work in the future.

I am sure that your work will be very valuable to the field. I am
looking forward to seeing your work in the future.

I am sure that your work will be very valuable to the field. I am
looking forward to seeing your work in the future.

Sincerely,
[Name]

Enclosure: [List of items]

Very truly,
[Name]



COMMUNITY DEVELOPMENT DIVISION
FREDERICK COUNTY, MARYLAND

Department of Planning and Development Review

30 North Market Street • Frederick, Maryland 21701

www.co.frederick.md.us

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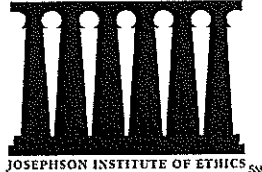
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**DEPARTMENT OF
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Department Director

CHARACTER COUNTS!



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ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

***Deere Meadows Tract 2
Frederick County Agricultural Complex***

Site Plan # SP 07-11 (AP #6210)

In General: The following Letter of Understanding ("**Letter**") between the Frederick County Planning Commission ("**Commission**") and Catoctin and Frederick Soil Conservation Districts ("**Developer**"), together with its/their successors or assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the approved site plan for Tract 2 of Deere Meadows (the "**Project**"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("**APFO**").

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's 16.7 +/- acre parcel of land, which is zoned Agricultural, and located between Elmer Derr Road and Horman Lane, with site access on both fronting roadways. This APFO approval will be effective for development of federal and state government offices, as shown on the site plan submitted to the Commission for approval on January 13, 2010.

Schools: Schools are not impacted because the development of the property is a non-residential use.

Water and Sewer Improvements: The Property is currently classified as *No Planned Service (NPS)* in the County's Master Water and Sewer Plan.

Road Improvements: In accordance with the updated July 11, 2008 Traffic Impact Analysis by Traffic Solutions, Inc., land use development on the site is capped based on traffic generation, at a total amount of 143 am and 184 pm weekday peak hour vehicle driveway trips.

In accordance with the developer option outlined in Section 1-20-12 and 13 of the County Code, as a condition of the APFO approval of the Project, the Developer has opted to pay its proportionate contribution (in lieu of construction) toward the following new escrow account: A new right turn/deceleration lane on the westbound off-ramp from US 340/15 approaching Mount Zion Road. The estimated cost of the improvement is \$146,078. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 20.0%. To that end, the Developer hereby agrees to pay \$29,216 to the escrow account for this road improvement.

As a further condition of the APFO approval of the Project, the Developer is required to widen Horman Lane to a 20' paved width from its site access to Cap Stine Road. If permission to widen this improvement is not granted by the controlling land owner(s), the 20' widening would extend only along the property frontage and a second temporary site access must be constructed on Elmer Derr Road, in order to minimize traffic on the substandard portion of Horman Lane, until such time as Horman Road is widened as required above, with the temporary access with Elmer Derr Road then gated and closed to traffic.

Period of Validity: The site plan approval is valid for three (3) years from the date of Commission approval, plus another three (3) year extension per Ordinance No. 11-03-569. Site plan approval expires on January 13, 2016. APFO approval shall be valid for as long as the site plan approval remains valid.

Disclaimer: This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

DEVELOPER: Richard McBride Chairman Cert 7/19/2011
By: Bobby E. Robertson Chairman Fred Date: 7/19/11
Name:
Title:

FREDERICK COUNTY PLANNING COMMISSION:

By: _____ Date: _____
Robert White, Chair or, _____, Secretary

ATTEST:

By: _____ Date: _____
Gary Hessong, Director, Permitting & Inspections

Planner's Initials / Date _____
County Attorney's Office Initials / Date _____
(Approved as to legal form)

Exhibit #2

July 13, 2009

Mr. Gary Hessong
Director of Division of Permitting and Development Review
Frederick County Department of Planning and Zoning
Winchester Hall
12 East Church Street
Frederick, Maryland 21701

RE: ADEQUATE PUBLIC FACILITIES DEVELOPER'S OPTION LETTER
CATOCTIN & FREDERICK SOIL CONSERVATION DISTRICTS

Dear Mr. Hessong:

Please incorporate the following Developer's Option Letter into a Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and the Catoctin & Frederick Soil Conservation Districts or assigns, which will set forth the conditions and terms under which the Commission deems the minimum necessary improvements dealing with roads, water and sewer that must be in place for the property described below to be developed in compliance with Section 1-20-8 of the Adequate Public Facilities Ordinance ("APFO") as adopted on October 15, 1991, as amended May 16, 1995, March 17, 1998, March 2001 and January 2008, and the approved Site Plan for this property. The Catoctin & Frederick Soil Conservation Districts ("Developer") hereby agree and understand that unless the below described improvements are in place in accordance with the Letter, development will not be permitted to proceed until they are in place or a revised Letter is approved by the Commission.

This Letter concerns itself with the Catoctin & Frederick Soil Conservation Districts 16.7 acre parcel of land, which is zoned Agriculture (A) on the south side of Elmer Derr Road east of Cap Stine Road. The existing empty lot is planned to be developed in accordance with prior Board of Zoning Appeals decisions and approvals.

This APFO approval will be effective for a period of three (3) years from the date of Commission approval.

SCHOOLS

Not subject to APFO approval because of commercial use of the site.

PUBLIC WATER AND SEWER IMPROVEMENTS

Water and sewer service to this property is not required for the proposed use.

ROAD IMPROVEMENTS

The County and the Catoclin & Frederick Soil Conservation Districts have identified the need to create an escrow account to help a ramp which may be impacted by the Developer proposed development achieve public facility adequacy. The Catoclin & Frederick Soil Conservation Districts have agreed to make a pro rata contribution to the intersection/improvement identified as follows:

1. Provide a proportionate share contribution into a new escrow account for the construction of a 350 foot right deceleration lane along the US 15/US 340 westbound off ramp.

This improvement will allow motorists desiring to go north along Mount Zion Road to bypass the projected 95th queue on the ramp that may result from left-turning or through-motorists at the stop sign for Mount Zion Road.

The Developer's contribution to the road escrow account as set forth in this Letter shall be made prior to the issuance of Building Permit for the Property, and such funds shall be appropriately deposited.

Sincerely,

Catoclin Soil Conservation District:

BY: Richard McBride
Richard McBride

7/6/13/09
Date

Frederick Soil Conservation District:

BY: Ray Ediger
Ray Ediger

July 24, 2009
Date

Frederick County Planning Commission:

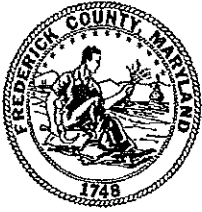
BY: _____

Date

Attest:

BY: _____

Date



FREDERICK COUNTY PLANNING COMMISSION

January 13, 2010

TITLE: Frederick County Agricultural Complex – (Deere Meadows, Tract 2)

FILE NUMBER: SP 07-11 (AP# 6209, 6210 & 6215)

REQUEST: **Site Plan Approval**
Requesting approval for Governmental Office Complex totaling 51, 786 sq. ft.; associated parking; and approx. 9,600 sq. ft. Outdoor Plaza

PROJECT INFORMATION:

LOCATION: South side Elmer Derr Road, near Cap Stine Road
ZONE: Agriculture
REGION: Adamstown
WATER/SEWER: NPS (No Planned Service)
COMP. PLAN/LAND USE: Agricultural/Rural

APPLICANT/REPRESENTATIVES:

APPLICANT: Catoctin Soil Conservation District
OWNER: same
ENGINEER: Lavelle & Associates, Inc.
ARCHITECT: Harne, Bowne Architects
ATTORNEY: Not Listed

STAFF: Stephen O'Phillips, Principal Planner

RECOMMENDATION: Conditional Approval

Enclosures:

Exhibit #1: Aerial Map
Exhibit #2: Letter by Zoning Administrator dated Feb. 4, 2008
Exhibit #3: Traffic Escrow Account Map
Exhibit #4: Developer's Option Letter dated June 13, 2009
Exhibit #5: Site Plan Sheets 1-7 of 7

STAFF REPORT

BACKGROUND:

Overview: This Site Plan application was first submitted in March 2007. There has been a long delay in bringing this application to the Frederick County Planning Commission (FcPc) for review because of several factors. Firstly, there was a 19-month gap between the first submission and the second submission. This gap was caused (in part) by the need to resolve:

- a) whether or not the Catoctin Soil Conservation District was exempt from Site Plan review as a state agency; and
- b) what type of office uses were allowed/being proposed with this application.

With regard to item 'a)', a Letter of Clarification was prepared by the Zoning Administrator clarifying that this Applicant is not exempt from Site Plan requirements because the Applicant, technically, does not meet the definition of a state agency, but is instead "a political subdivision". (See Letter attached.)

With regard to item 'b)', initially the Staff could not verify that the Applicant's Site Plan application conformed to the limitations of the Zoning Ordinance with regard to "public building"-office-use-only [in the Agriculture zone. This was based on the lack of notes on the Site Plan agreeing to limit office usage to government offices; there was a question as to whether the Applicant intended to lease the office space within this complex to non-governmental entities related to soil conservation efforts, based on a 2006 letter submitted by the Applicant. In July of this year, this issue was finally resolved to Staff's satisfaction with notes on the Site Plan.

Secondly, the State Highway Administration released plans in summer 2009 for a Park 'n Ride on Elmer Derr Road, on the northwestern tip of this subject parcel. This new development, plus other road and access issues caused changes to the site access design and required corrections to a 2005 Public Taking Plat.

Zoning Land Use Issues, in General: When this Site Plan application was first submitted in 2007, the Zoning Ordinance contained a provision to allow "*public buildings and properties*" in the Agriculture zone as a Principal Permitted Uses with Site Plan review. The Board of County Commissioners (BOCC) adopted a Zoning Text Amendment on June 4, 2009 (ZT 09-03 or, Ord. 09-21-525) that retained that designation "*public buildings and properties*" in the Agriculture zone as a Principal Permitted Use with Site Plan review.

However, on July 9, 2009 the BOCC adopted another Ordinance (No. 09-22-526) that removed the "*public buildings and properties*" designation as part of a text amendment to change the Site Plan review process. However, this change was effective only for Site Plan applications filed after July 24, 2009. This Site Plan application was filed on March 17, 2007. Therefore, this application may proceed utilizing the designation of "*public buildings and properties*" in the Agriculture zone as a Principal Permitted Use with Site Plan review.

"Subdivision" History of Tract 2: This development is located on Tract 2 of the Deere Meadow Public Taking Plat. This Public Taking Plat was originally recorded in 2005. Some of the notes placed on the 2005 Plat were incorrect. A Correction Plat removing these notes has been recently recorded, correcting these errors.

ANALYSIS of Site Plan Issues:

Land Use in Particular and Applicable Code Sections: These buildings and the uses proposed for them are being reviewed under § 1-19-5.310 *Use Table* of the Zoning Ordinance prior to the effective date (July 24, 2009) of Ordinance 09-22-526. This Site Plan application proposes a complex of office buildings to be used by local, Maryland State and federal governmental agencies associated with soil conservation goals. The building complex is essentially three buildings connected by two breezeways and totals 46,650 sq. ft. A note on the Site Plan indicates that all lessees shall be subject to permit review by the Division of Permitting and Development Review and the Zoning Administrator, thereby providing County review authority of all tenants for the office spaces.

Additionally, there are two auxiliary buildings (a pavilion and maintenance building) that bring the total to 51,786 sq. ft. The pavilion (for educational events) and a storage/maintenance building are located on the east side of the complex. An outdoor plaza (roughly 9,600 sq. ft. open-air plaza) is located behind the entrance lobby and has been designed to accommodate special events. All special events shall be required to obtain Special Events Use Permits, as indicated in Note #26 on Sheet 1. Lastly, the Applicant also proposes 129 parking spaces.

Dimensional Requirements & Bulk Standards: *Section 1-19-6.100 Design Requirements For Specific Districts* of the Zoning Ordinance notes the following minimum lot criteria for governmental uses:

Minimum Values					Max. Height of Structure
Lot Area	Lot Width	Front setback	Side Setback	Rear Setback	
40,000 sq. ft.	300'	50'	50'	50'	30'

Tract 2 is 16.70 acres. The locations of all buildings meet the minimum setback requirements: the lowest setback value of the site layout is 105'. The Applicant proposes a maximum building height of 29' – 9", thereby complying with the building height maximum of 30'. This building height calculation has been verified by the Zoning Administrator. These calculations are shown on Sheet 7 of 7.

Access/ Circulation: The unusual arrangement of this property fronts public roads (Horman Lane and Elmer Derr Road) on all sides except for one 408' shared property line with the adjoining parcel to the west. Both Horman Lane and Elmer Derr Road are designated as Local roads on the Adamstown Comprehensive Plan, although an argument can be made that with the eventual build-out of residential PUDs to the east, the function of Elmer Derr Road may begin to act more like a Minor Arterial road, causing greater intersection volume at the Elmer Derr/Cap Stine Road intersection.

The Applicant proposes a full entrance off of Horman Lane. No entrance is proposed from Elmer Derr Road, which has the frontage restricted as 'denied access, except for emergency access'. Staff supports this entrance arrangement for several reasons:

- 1) The proposed State Highway Administration (SHA) Park 'n Ride is to be located to the northwest of this property, and the full entrance location on Horman Lane avoids potential conflicts with the proposed Park 'n Ride entrance spacing and the mixing of vehicular movements at the Cap Stine Road intersection, about 600' to the west.
- 2) If the site entrance were located on Elmer Derr Road, additional vehicular conflicts may occur with southbound motorists queuing to turn left onto Elmer Derr road and with the through-movement traffic continuing southbound on Cap Stine Road.
- 3) The location of the southbound left-turn movements to Horman Lane further removes this vehicular activity from the US 340 overpass, and provides marginally better sight distance.
- 4) An entrance off of Horman Lane provides a shorter entry throat, and provides a shorter distance for pavement looping systems to be created in the parking lots.

With regard to circulation, the Applicant has provided loop parking lot systems in the front of the complex with 62'-bay parking lot models in the front and in a small, short 150' dead-end parking lot to the west. Also, there is a one-way 20' drop-off lane in the front of the lobby to the office building complex. Typically, the DPDR Staff tries to obtain a more efficient 60'-bay model for parking lots. But in this case, the Staff supports the 62' model in these locations because of the likely prevalence of the use of large trucks on this site.

To the east of the entrance is a 64' parking-bay model that accommodates a long, 350' dead-end system with 6% grades and a loop at the end. The use of this 64'-bay model in this location is appropriate because of the confluence of relatively steep grades, the dead-end system, and the need to accommodate the storage /maintenance building on the east end of the site with large trucks for loading.

Road Frontage Improvements: No improvements to Elmer Derr Road are proposed because there is no access from Elmer Derr Road. However, the Applicant is proposing to upgrade Horman Lane (as shown on the Site Plan Sheet 2) in order to mitigate certain APFO conditions of inadequacy. The Applicant proposes to upgrade Horman Lane from 15-16' to 20' width from the site access point to Cap Stine Road. The 20' width meets emergency vehicle access requirements. This improvement is further described under the "APFO" paragraph below.

Parking: The Applicant is required by § 1-19-6.220 *Parking Space Requirements* of the Zoning Ordinance to provide 129 space, with a minimum of five being ADA-compliant. The Applicant has provided 129 spaces with six ADA spaces. All of the parking areas have been distributed in such a way as to provide an appropriate concentration of parking spaces for the building areas generating the greatest parking demands. The six ADA spaces are in three sets of two with van-accessibility that are evenly distributed amongst the various buildings. A cross-walk is shown providing access to the westernmost Soil Conservation Building. Additional construction details and notes need to be added to this plan to specify the construction and material.

Loading Area: With 46,650 sq. ft. of office use, the Applicant is required to provide two small and two large loading spaces. The Applicant has provided these required loading spaces. Two large spaces are provided to the Maintenance Building and one small loading space is provided to each of the two office wings.

Utilities: The site is classified No Planned Service. Private septic and well will provide sewer and water service. The septic and water usage are both significantly under 5,000 gallons-per-day, and therefore, the Applicant is eligible to apply for a Ground Water Appropriations permit exemption.

Lighting: The Applicant is proposing 22'-6" ht. light standards. However, the actual ground-to-point-of-illumination appears to be about 1' less. The foot-candle distribution levels are relatively low, and provide non-intrusive levels of illumination for nighttime event lighting, with no significant "hot-spots".

The Applicant has provided two lighting schemes: one for night-time events and one for security parking. However, there is no difference between the night-time event parking and the security lighting. The Staff questions why the illumination levels need to be kept the same during all hours of the night when there is no site usage and recommends that Sheet 4 of 7 (L-2) show a reduction to only five pole lights for non-nighttime event security lighting. Additionally, the base data for the lighting sheets needs to be updated with the new parking lot layout, which will require some minor adjustments to the pole locations.

Signage: The Applicant is allowed 168 sq. ft. signage allotment. The Applicant is proposing a free-standing sign near Elmer Derr Road (144.5 sq. ft.) and three building-mounted signs (11.5, 5 and 5 sq. ft.) which total 166 sq. ft. The intent of the plans is to show a general location of the building-mounted signage, and provide some flexibility to the location. Therefore, the drafting should be amended to show general ranges of locations rather than the specifics locations. The free-standing sign meets the signage setback requirement.

Building Elevations: Typically, the FcPc has asked for building elevations at the time of Site Plan review to determine compatibility with the surrounding neighborhood. However, there is no Code authority to deny an application in the Agriculture zone based on architectural issues.

The Applicant has provided architectural elevations on Sheet 6. The buildings have been designed to respond to the historical agricultural architecture in Frederick County. Building scale and massing; roof lines and decorative structures; the silo-water-tank design; and the general material usage and stone veneer have been used in such a way as to create well-designed visual associates with actual agricultural complexes in Frederick County, although on a larger scale. (More discussion on architecture is under "Historic Infrastructure Issues" below.)

Landscaping: The Applicant has provided a landscape design that provides screening of parking lot areas and an abundant amount of over-story shade trees. The landscape plantings have been appropriately integrated with forest plantings and natural regeneration areas to create an almost solid forested buffer along Horman Lane, while preserving views to the building complex from US Route 340 and Elmer Derr Road. The entire proposed landscape is composed of a wide selection of Frederick County native trees and shrubs and provides a well-design native screen for the parking areas. However, the base data for the landscape sheets needs to be updated with the new parking lot layout, which will require some minor adjustments to tree and shrub locations.

Forest Resource Ordinance (FRO): The Applicant has submitted a Combined Preliminary/Final Forest Conservation Plan and proposes to plant all required forest on-site in a major drainage swale along Horman Lane and partially along Elmer Derr Road. The Plan contains a broad selection of native trees and shrubs well-suited to this particular site. The natural regeneration area (above and beyond the FRO requirements) has also been designated for the western end of the Horman Lane frontage.

Storm-Water Management: This Applicant has voluntarily subjected this project to the new Maryland State storm-water regulations that will contain innovative on-site features (rain-gardens, ground infiltration, etc.) as a primary means of treating storm-water prior to it being delivered to a storm-water detention pond.

Historical Infrastructure Issues: There are no historic or known archeological resources on the parcel. However, the property borders the *Journey Through Hallowed Ground National Scenic Byway* (US 15/340) and is located within the boundary of the *Heart of the Civil War State Heritage Area*. Although there are no County guidelines adopted for either of these designations, the site's proximity to the *National Scenic Byway* in a primarily rural area should be respected in the design of the proposed structure.

The renderings submitted show a strong relationship to the historic agricultural basis of the County, the architectural features of farm complexes, and a scale that is compatible with the SHA "Context Sensitive Solutions for Work on Scenic Byways". The parking is placed behind the complex's principal buildings that face the Byway. The landscaping of the site and the parking area uses native species and provides various densities that the existing open fields do not have.

Adequate Public Facilities Ordinance (APFO): The Board of County Commissioners adopted new APFO regulations (Ord. 09-20-524) that became effective for all APFO applications submitted after July 7, 2009. This APFO application was submitted on March 17, 2007, and thereby is subject to pre-July 7, 2009 APFO provisions.

This APFO application was reviewed for potential impacts on schools, water/sewer and roads. The APFO approval can be granted for a three-year period, because the Traffic Impact Analysis (TIA) upon which this approval was based studied a three-year traffic-capacity window.

- **Schools:** The non-residential nature of this project has no impact on schools.
- **Water and Sewer:** There are no water or sewer facilities to be impacted because the site is using existing well and proposed septic.
- **Traffic:**
 - **Intersection Analysis & Capacity:** The Applicant submitted a traffic impact analysis, dated July 11, 2008 and updated January 21, 2009 by Traffic Solutions, Inc., indicating the site is generating 143 new AM and 184 PM peak-hour trips. Except for US 340 WB ramps, all of the study-area intersections operate at an adequate level of service (LOS) "C" (Rural) or better, under total future traffic conditions. These were the intersections studied:
 - US 340 WB ramps at Mt. Zion Rd. - (LOS 'D')
 - US 340 EB ramps at Cap Stine Rd.
 - Elmer Derr Rd. at Cap Stine Rd.
 - Horman Lane at Cap Stine Rd.
 - Horman Lane at Emergency Access Point
 - Elmer Derr Rd. at Site Entry
 - MD 351 at South Renn Rd.
 - **Proposed Intersection Contribution:** There are no existing escrow accounts in the study area (see attached map). However, the Applicant is proposing to provide a *pro rata* contribution to create a new escrow account to address the US 340 WB ramp LOS failure:
 - **New Escrow Account at US 340 WB ramp at Mt. Zion Rd.**
 - **Improvement:** Addition of a 350' decel lane
 - **Initial Cost:** To be determined by Applicant and approved by DPDR
 - **Accrued:** 0%
 - **Assessment:** This improvement will allow ramp motorists desiring to go north along Mt. Zion Road to bypass the projected 95th % queue on the ramp that would result from left-turning or thru-movement motorists at the stop sign at Mt. Zion Road. Payment would be made prior to the issuance of any building permit.
 - **Traffic Link Inadequacy & Proffer:** Lastly, with regard to the Horman Lane upgrade, road improvements necessary to meet the APFO standards shall be determined by the Planning Commission as permitted under § 1-20-31 (F), after reviewing the entire record, including structural adequacy of the pavement and lane width. Horman Road (by visual inspection and field measurement) is seriously deteriorating and has less than standard width to support commercial development. Also, the great majority of traffic is proposed to access the site via US 340/15 and Cap Stine Road, which will be especially true when Cap Stine Road is relocated to line up with English Muffin Way, forming a major east-west arterial connector.

In order to reasonably mitigate these inadequacies, the Applicant has agreed to upgrade and widen Horman Road to a 20' wide road section from Cap Stine Road to the site access, and has shown these improvements on Sheet 2 of the Site Plan. (Additionally, any necessary upgrades for commercial traffic will be required at the time of improvement Plan review.) When the APFO Letter of Understanding is prepared, this proffer (including all associated design details regarding commercial traffic upgrades) shall be included in the LOU language.

OTHER AGENCY COMMENTS:

Other Agency or Ordinance Requirements	Comment
Engineering Section, DPDR:	Conditional Approval, subject to completing storm-water management (SWM) designs as this project moves through completion.
Traffic Section, DPDR:	Conditional Approval, as per comments in the "APFO" paragraph.
Planning Section, DPDR:	Conditional Approval, subject to providing drafting corrections of the miscellaneous items mentioned in this Report.
Life Safety, DPDR:	Conditional Approval, subject to revising the detail for the proposed entrance sign to include the street address. First responder is Jefferson and second responder is Carroll Manor.
Health Department	Conditional Approval. Health Department believes that the septic capacity is adequate for the stated uses. Well locations must be finalized <u>prior</u> to Site Plan signature. The Ground-water Appropriations Permit exemption may be filed <u>after</u> signature, but prior to building permit release.
Soil Conservation District:	Approved.
Historic Preservation	Approved.
State Highway	SHA defers resolution of SWM to local agency, but offers suggestions for design considerations of the US 340.

FINDINGS:

The Applicant proposes to develop Tax Map 85/Parcel 84 with a 46,650 sq. ft. of office complex to serve governmental agencies; a 3,572 sq. ft. Pavilion; and a 1,564 sq. ft. Maintenance Building. The Applicant is requesting:

- ☐ Site Plan Approval (AP # 6209)
- ☐ APFO Approval (AP # 6210)
- ☐ FRO Approval AP # 6215)

- 1) The site plan approval can only be given for a three-year period, or until January 13, 2013. Vesting of the Site Plan by "Start of Construction" prior to January 13, 2013 would be required to continue the Site Plan validity.
- 2) The Adequate Public Facilities (APF) approval can be granted for three years (January 13, 2013). The APF Letter of Understanding must be placed on a future CONSENTAGENDA (and signed) prior to this Site Plan being signed. When the APF Letter of Understanding is prepared, the proffer to upgrade Horman Lane to 20' from site entrance to Cap Stine Road must be included in the LOU language.
- 3) The Combined Preliminary/Final Forest Conservation Plan must be completed and signed prior to Site Plan signature. The recordation of forest easements and sureties must be completed prior to building permit release.

- 4) Providing a reduced lighting level for security during non-night-time events on the site will aid in meeting the scenic goals of the *National Scenic Byway* and the *Heart of the Civil War State Heritage Area*.
- 5) Based upon the discussion in the report, the Staff finds that the application meets and/or will meet all applicable Zoning, Subdivision, APFO and FRO requirements once all Staff and Agency comments and conditions are met or mitigated. With certain conditions of approval added, the Staff offers no objection to approval.

RECOMMENDATION:

Should the Planning Commission approve this Site Plan SP 07-11 (AP# 6209) for a 46,650 sq. ft. of office complex to serve governmental agencies; a 3,572 sq. ft. Pavilion; and a 1,564 sq. ft. Maintenance Building, the motion for approval should include the following:

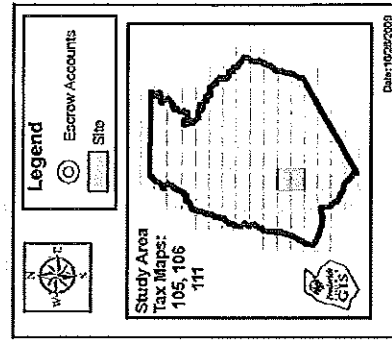
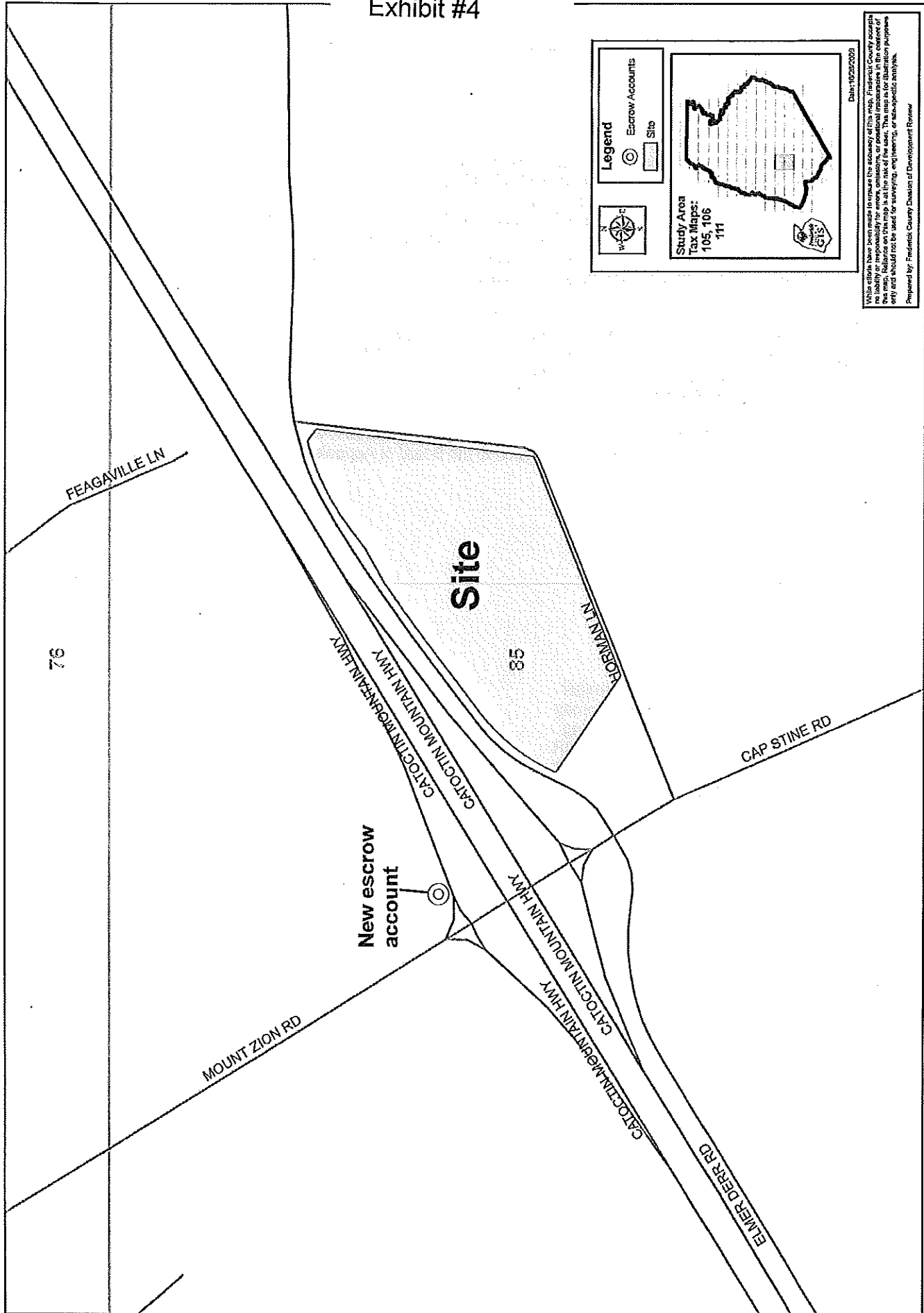
- APFO Approval (AP # 6210)
- FRO Approval AP # 6215)

Then, Staff would recommend that the following items be added as conditions of approval:

- 1) Prior to Site Plan signature:
 - a) complete the Combined Preliminary/Final Forest Conservation Plan.
 - b) obtain APF Letter of Understanding approval and signature, with the proffer to upgrade Horman Lane to 20' from site entrance to Cap Stine Road (and any commercial traffic upgrades) included in the LOU.
 - c) comply with Agency comments, which shall include but not be limited to completing signage, landscaping, lighting and storm-water management designs.
- 2) As this project moves through the development process, comply with Agency comments, specifically noting the Health Department concerns.

Escrow Accounts for Deere Meadows

Exhibit #4



First, no proof (e.g., signed leases or letters of intent) that the state and federal agencies listed in the letter will actually use the Deere Meadows Project has been provided to the County. Second, partial use of an office building by a state or federal agency does not qualify for the exemption; the property must be owned or used in its entirety by a state or federal agency before the §1-19-6 exemption can apply. Lack of reference to partial use or ownership in §1-19-6 indicates that the state or federal use or ownership must be 100 percent. The BoCC could have included the words "in whole or in part" if they meant to exempt partial use by state or federal agencies from the zoning ordinance, but they did not do so.

Based on all of the above, it is my opinion that the Deere Meadows Project is not exempt from Frederick County zoning ordinance requirements per §1-19-6 of the Frederick County Code. However, if you can provide documented proof that all of the actual users, (not simply "anticipated" users) of the proposed office building are state or federal agencies, this issue could be reconsidered.

If you disagree with this determination, you have the right to appeal this decision within thirty days of the date of this letter and present your information to the Board of Appeals as provided in the Frederick County Zoning Ordinance §1-19-49.

Sincerely,

Larry W. Smith

Larry W. Smith
Zoning Administrator

cc: Ronald Hart, County Manager
John Mathias, County Attorney
Eric Soter, Director, Planning
Gary Hessong, Director, DPDR
Michael Chomel, Senior Assistant County Attorney
Mark Depo, Director of Development Review
Kathy Mitchell, Assistant County Attorney
Teresa Blaser, Executive Assistant to County Manager